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[See Exhibit 1's, attached to Docket No. 13318]

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In Re

Case No. 19-30088-DM

PG&E CORPORATION,

Chapter 11

and

(Lead Case—Jointly Administered)

PACIFIC GAS AND ELECTRIC
COMPANY

Debtors.

**CLAIMANTS' REPLY
MEMORANDUM IN SUPPORT OF
CONSOLIDATED MOTION TO
ALLOW/DEEM TIMELY LATE
FILING OF CLAIMANTS, DOCKET
NO. 13318**

Affects:

- ☐ PG&E Corporation
☐ Pacific Gas & Electric Company
☒ Both Debtors

Hearing Date: January 10, 2023
Time: 10:00 a.m.
Location: Via ZOOM

*All papers shall be filed in the Lead
Case, No. 19-30088-DM

Movants/Claimants (as set forth in Exhibits 1 to the Consolidated Motion to Allow/Deem Timely Late Filings of Proofs of Claims (the "Motion"), as Docket No. 13318) file this Reply Memorandum in Support of the Motion and in Response to the PG&E Fire Victim Trust's (the "FVT") Objection to the Motion.

I.

AUTHORITY AND ARGUMENT

A. The FVT Has Failed to Provide Any Evidence Regarding its Objection and its Assertions.

Local Bankruptcy Rule ("LBR") 9013-1(d) sets forth that factual contentions made in support of, or in opposition to, any motion, application or objection should be

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1 supported by affidavit or declarations and appropriate references to the record.

2 Here, the primary thrust of the FVT's Objection is twofold: (a) that the late claims
3 will prejudice other fire victims and (b) that the late claims will "dilute" other claims that
4 are being administered. However, the FVT has not engaged in any substantial or
5 substantive discussion regarding the extent (if any) of this prejudice and/or dilution, nor
6 has the FVT provided any evidence/declaration whatsoever regarding these claims. These
7 omissions are fatal to the FVT's Objection.

8 Moreover, even if the FVT had provided evidence in support of these claims, the
9 mere existence of prejudice, in and of itself, is insufficient. The requisite inquiry is the
10 extent of the prejudice (and also to be carefully weighted with the other *Pioneer* factors).
11 Obviously the mere existence of any prejudice in a case like this would automatically
12 foreclose on all such claims ever being admitted as timely—which is clearly not the case
13 (and discussed more fully in the Claimants' Motion). Therefore, on this issue, some
14 courts have looked at the prejudice through the eyes of the "estate" and/or creditors,
15 wherein they look at the size of the late claim(s) in relation to the estate, as a
16 consideration in determining prejudice. *In re Keene Corp.*, 188 B.R. 903, 910 (bankr.
17 S.D.N.Y. 1995). Here, PCG (stock ticker for PG&E) closed 2022 at \$16.26—greatly
18 exceeding the FVT's original concerns from 2+ years ago and likely exceeding their
19 wildest expectations. Moreover, the FVT has not engaged in any substantive discussion
20 regarding the extent of possible prejudice, nor has it provided any evidence whatsoever
21 regarding its claim of increased insolvency (particularly in the context of the increasing
22 value of stock and the substantial selling of shares over the last several months).

23 Based on the foregoing, the Court should grant the Motion. Additionally, the
24 Claimants have already preemptively and thoroughly attempted to delve into the extent of
25 possible prejudice in their Motion—which is wholly un rebutted by the FVT. It's clear that
26 110 additional claims (compared to the tens of thousands of timely filed claims) is, in
27 fact, *di minimus*—being less than 1% both in number of timely claims and in their
28 aggregate value compared to the *current* (not original) value of the FVT. Even adding

1 costs of administration of such claims does not substantially increase these values or get
2 close to even being 1%. Notably, we're talking about no more than \$20 million in claim
3 values, compared to approximately \$5 billion in combined unliquidated stock and cash.
4 This is less than half a percent of the *current* value and an even small amount of the
5 original total value.

6 **B. The FVT Asserts More Than 1,700 Timely Emotional Distress Claims Were
7 Filed, But This Fact Supports the Motion.**

8 The FVT raises the 1,700 figure because the Court previously inquired on the
9 figure at a hearing on a like-Motion. There are two issues that cut against the FVT on
10 this topic. First, the figure is notably low in comparison to the total number of claimants
11 (1,700 of 82,000—or 2%). Given these figures, it's clear that these non-property damage
12 and emotional distress claims likely flew under the radar for everyone—particularly
13 possible claimants. Second, the FVT bootstraps this discussion to conclude that
14 “[c]learly, Movants’ claim that they “received absolutely no notice whatsoever of their
15 entitlement to file a claim” is overstated at best.” This is both a non-sequitur and is not
16 rooted in evidence or fact. And, if anything, the low figure actually portrays the exact
17 issue that Movants’ have articulated: they were not aware of their claims—which is also
18 supported by the Declaration submitted with the Motion.

19 **C. The FVT Incorrectly States that Movants’ “have not provided any facts that
20 would support a finding of excusable neglect.”**

21 First, the FVT’s assertion is not based in evidence and overlooks the 4-page
22 Declaration of Robert M. Bone submitted with the Motion, which substantially details
23 exactly what the FVT incorrectly asserts is not present in the Motion. The FVT does not
24 respond whatsoever to any of these discussions or claims (with evidence or otherwise),
25 including impact of COVID, knowledge of the claims (and reasoning for why, including
26 impact of other non-compensable fires), and so on. The FVT also incorrectly asserts that
27 Claimants stated they did not file claims simply because they “were unaware that their
28 claims were compensable”. Again, this is simply not the case and overlooks the
Declaration submitted in support of the Motion, which goes into very specific details on

1 this topic. This Declaration is also far more comprehensive than prior Declarations,
2 which might explain how it was overlooked by the FVT. The Declaration was expanded
3 to give additional details, facts, and context, given that the FVT stated it intended to look
4 harder at (not foreclose on) late claims motions after September 30, 2022.

5 Second, the additional brief statements are per the Court's 8/28/22 Order and the
6 Court has granted (and the FVT has accepted) like-claims without requiring anything
7 beyond what the Court has asked for on those Motions and with respect to those brief
8 statements (and a supporting Declaration)—nor has the Court amended its Order to
9 clarify.

10 On this topic, the FVT lacks the following: (1) substantive discussion, and
11 specific responses, regarding the facts and Declaration of Robert M. Bone, and (2) any
12 evidence whatsoever on this topic. Like the above, these omissions are fatal to the FVT's
13 Objection, as the FVT has failed to provide any evidence and has failed to rebut the facts
14 presented by the Claimants.

15 Based on the foregoing, the Motion should be granted.

16 WHEREFORE, the Claimants respectfully request that the Court:

- 17 1. Grant the Claimants' Motion;
18 2. Grant the Claimants such other and further relief, at law or in equity, to
19 which they may be justly entitled.

20 DATED: January 3, 2023

BLUESTONE FAIRCLOTH & OLSON, LLP

21 /s/ Jacob M. Faircloth

22 By _____
23 Jacob M. Faircloth
24 ATTORNEY FOR THE CLAIMANTS
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CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2023, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's filing system or by contacting counsel of record.

DATED: January 3, 2023

BLUESTONE FAIRCLOTH & OLSON, LLP

/s/ Jacob M. Faircloth

By _____
Jacob M. Faircloth
ATTORNEY FOR THE CLAIMANTS